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OFFICE OF PETITIONS

In re Application of
Abdollahi et al.
Application No. 10/734,358
Filed: December 12, 2003
Attorney Docket No. NGC-145/000312-040

ON PETITION

This decision concerns the June 29, 2004 "Petition under 37 CFR 1.47 Filing When an Inventor Refuses to Sign or Cannot be Reached" which, supplemented on July 30, 2004, is being properly treated as a petition under 37 CFR 1.47(a).

The petition is **DISMISSED**.

Seven inventors are named in this application which was filed with an unsigned declaration.

On March 22, 2004, a "Notice to File Missing Parts of Nonprovisional Application" ("March 22, 2004 Notice") was mailed, setting forth an extendable, non-statutory, 2-month period for submitting a properly signed oath or declaration.

On May 24, 2004 (Certificate of Mailing date May 21, 2004), a declaration signed by 6 of the 7 inventors was filed.

On June 4, 2004, a "Notice of Incomplete Reply (Nonprovisional)" was mailed, indicating that the signature of inventor Mohsen Abdollahi ("Abdollahi") was missing, and stating that the reply period for responding to the March 22, 2004 Notice remained that set forth in that Notice.

The instant petition, accompanied by a request for a 2-month extension of time and the extension-of-time fee, asserts that Abdollahi refused to sign the application declaration.

The available inventors may file the application on behalf of themselves as well as Abdollahi, provided that a *bona fide* attempt has been made to present to Abdollahi, for review and signature, a copy of the entire application (specification including claims; drawings), and that the latter refuses to join in this application.¹

¹ MPEP section 409.03(d) (Rev. 2, May 2004).

To show that Abdollahi has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts, signed by a person with firsthand knowledge of the facts recited therein, concerning the circumstances of presentation of the application papers to Abdollahi at his last known address,² and his subsequent refusal.

The petition encloses an affidavit of counsel's Office Administrator (supplemented on July 30, 2004), stating that she has sent Abdollahi, in an e-mail attachment on December 10, 2003, a complete copy of the application (specification including claims; drawings); and that Abdollahi later called and informed her that he would not join in this application. While the application papers were not sent to Abdollahi's last known address, they were apparently received by Abdollahi through the e-mail. Moreover, Abdollahi's last known address is provided in the petition. The Office concludes that a *bona fide* attempt has been made to present Abdollahi with a copy of the entire application, and that the latter refused to join in.

However, the May 24, 2004 "Declaration and Power of Attorney" lists the 7 inventors on separate pages and, as signed and presented, evidently is a composite one.³ In other words, each inventor appears to have been presented only the page containing his signature block for signing, and was not shown either the page identifying the application or claimed invention, or the inventive entity. Therefore, the declaration is defective for non-compliance with 37 CFR 1.63(a) and (b). This declaration is thus not accepted and the petition is dismissed.

To prevent abandonment of this application,⁴ a renewed §1.47(a) petition (no fee) must:

- be filed within **TWO MONTHS** of the mailing date of this decision;⁵
- include an oath/declaration properly signed by all inventors except Abdollahi;⁶ and

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² 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 2, May 2004).

³ For example, page 8 consists of the information for only the 6th inventor, is signed by him, but is the only notarized page.

⁴ See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

⁵ Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

⁶ If the 6 available inventors are not in the same geographical location, it is acceptable to submit 6 complete copies of oath/declaration, each listing the application and/or claimed invention and the entire inventive entity, but only signed by 1 inventor.

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Finally, the \$130 surcharge for lacking a proper oath or declaration upon filing of the application was charged to Deposit Account No. 50-1941 on May 24, 2004. The duplicate charge to the deposit account processed on June 30, 2004 has been reversed.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.



RC Tang
Petitions Attorney
Office of Petitions